

IMPORTANT TAX INFORMATION

▼ Tax Rate Schedule Changes

The Tax Rate Schedule is determined by provisions in state law. It has moved from Schedule B to Schedule C. Rates for 2003 were determined by Schedule B and had rates ranging from 0.57 percent to 5.40 percent. Rates for 2004 have been determined by Schedule C, and range from 0.97 percent to 5.40 percent of taxable wages. The State Unemployment Insurance Trust Fund shrank 24 percent between September 2002 and September 2003 thereby triggering this tax schedule change. The first tax payments using the new rates are due April 30, 2004.

▼ Taxable Wage Base Increased to \$30,200

The amount of worker wages that is taxed will also increase under state law. Employers will pay unemployment taxes on the first \$30,200 of a worker's wages in 2004.

▼ Major Changes from the State Legislature

The passage of Second Engrossed Senate Bill 6097 enacted the most comprehensive changes to unemployment insurance law since the inception of Experience Rating! The changes affect both benefits and taxes and have varied effective dates ranging from June 20, 2003 to 2007. These legislative changes were supported by the business organizations of Washington State.

Changes to Tax Law

▼ Voluntary Contribution Change

Effective June 20, 2003

Prior to the new law, employers qualified to participate in the Voluntary Contribution Program by having had an increase of at least six rate classes from the prior year. To participate in the program they had to buy down at least two rate classes by using only benefit charges from the two most recent fiscal years.

What's New: The employer must have had an increase of at least twelve rate classes and must buy down at least four rate classes using benefit charges from the two most recent fiscal years.

▼ Elimination of Marginal Labor Force Attachment (MLFA)

Effective June 20, 2003

Prior to repeal, regular taxable base year employers could be partially or fully non-charged automatically for benefits paid a claimant. A claimant was determined to be MLFA if benefits payable for a quarter exceeded the amount of wages earned in Washington for the sum of the two previous corresponding calendar quarters. Benefits paid in excess were not charged to regular taxable base year employers.

What's New: MLFA has been repealed.

▼ Exempting Wages Paid to H2 Workers

Effective June 20, 2003

Currently, employers who have workers from other countries under the H2 program report and pay taxes on them.

What's New: Employers will no longer report wages or pay taxes on H2 workers.

▼ Penalties for Untimely and Incomplete Filing

Effective June 20, 2003

Currently there is a \$10.00 late report fee.

What's New: If an employer fails to file in a timely and complete manner, a report required by RCW 50.12.070 or the rules adopted pursuant thereto, the employer shall be subject to a penalty not to exceed \$250.00 or 10% of the quarterly contributions for each offense, whichever is less. The Department is working to educate employers on this new law and will begin applying the penalties 2nd Quarter 2004.

▼ Penalties for Misrepresenting the Amount of Payroll

Effective June 20, 2003

No previous law.

What's New: If the employer knowingly misrepresents to the Employment Security Department the amount of his/her payroll upon which contributions are based, the employer shall be liable to the State for up to 10 times the amount of the difference in contributions paid, if any, and the amount the employer should have paid and for the reasonable expenses of auditing his/her books and collecting those taxes.

▼ Penalties for Evading Successorship Provisions

Effective June 20, 2003

No previous law.

What's New: If any part of a delinquency for which an assessment is made is due to an intent to evade the successorship provisions, the Commissioner shall assign to the employer, and to any business found to be promoting the evasion of such provision, the highest rate assigned qualified employers. This rate will be assigned for five consecutive quarters, beginning with the calendar quarter in which the intent to evade the provision is found.

▼ Exemption of Stock Options from Wages

Effective January 1, 2004

Currently exercised stock options are considered wages for unemployment tax purposes.

What's New: Exercised stock options are not considered taxable wages. Employers will report exercised stock options with Exempt Corporate Officer Wages on Line 9 of the tax report.

▼ Allows use of NAICS Code in Place of SIC Code for Industry Averages

Effective Tax Year 2004

The Department's Labor Market and Economic Analysis (LMEA) Division has been assigning both a Standard Industrial Classification (SIC) code and a North American Industry Classification System (NAICS) code to all employer accounts.

What's New: The SIC code is outdated and no longer maintained. The Industry Average Tax Rate for each year will be based upon the weighted average (employer's tax rate applied to their taxable wages for the most recently completed fiscal year) of all qualified employers in a specific NAICS code. There are currently 337 NAICS classifications.

▼ Only Separating Employer Charged—Quitting Work Due to Deteriorating Work Conditions

Effective January 4, 2004

Currently all taxable base year employers are proportionately charged their percentage of the benefits paid (by their share of base year wages) unless relief of charges is granted.

What's New: If an employee quits for reasons attributable to the employer, and the separating employer is a taxable base year employer, and the claimant qualifies for benefits based on that separation, 100% of benefits paid on that claim will be charged to the separating employer.

▼ Only Separating Employer Charged—Quitting To Take a Bona Fide Job Offer and Actually Working at That Job

Effective January 4, 2004

Currently all taxable base year employers are proportionately charged their percentage of the benefits paid (by their share of base year wages) unless relief of charges is granted.

What's New: If an employee quits to take a bona fide job offer with another employer, and then does work for that employer but subsequently loses the job for reasons not their own fault, the separating employer will be charged 100% of the benefits if they are a taxable base year employer.

▼ How Tax Rates are Calculated and Assigned

Effective Tax Year 2005

A Tax Table with 20 rate classes and levels ranging from AA to F is in use for 2004.

What's New: In 2005, a Tax Table containing 40 fixed array classes from 0.00% to 5.40% will replace the current 20 rate schedule. Employers will be assigned to a rate class using the "Array Calculation Factor Rate" that has fixed steps of 0.001250 for Rate Classes 1 through 31 and 0.002500 from 32 through 40.

Graduated Social Cost Factor: This is new for 2005 and the factor will be the new "Flat Social Cost Factor" multiplied by a variable percentage assigned by rate class. The variable percentage ranges from 78% to 120%.

The Flat Social Cost Factor is determined by a complex formula. It involves the benefits paid out in excess of the Array Calculation Factor Tax collected during the immediate past fiscal year. Also in the calculation is an analysis of excess in the Trust Fund and minimum reduction calculations. The minimum for the Flat Social Cost Factor is 0.6%.

There is a ceiling for the combined Array Calculation Factor Rate and the Graduated Social Cost Factor of 6.5% for any qualified employer, however those qualified that have been assigned specific NAICS codes, may have a combined limit of 6.0%. These limitations do not apply to employers receiving a delinquent rate due to non-payment or non-reporting.

Solvency Surcharge: The "Solvency Surcharge" is assigned after the limitations of 6.0% and 6.5%. It is designed to be assessed when the balance in the Trust Fund is not anticipated to be sufficient to pay benefits for the next year. The formula to calculate this rate is fairly complicated and does not lend itself to a short explanation. The rate is capped at 0.2%.

Employment Administration Fund (EAF): The EAF is still assigned at either 0.02% or 0.03%, but is assigned after the limitations.

Employment Security Department

Predecessor/Successor Changes

Effective January 1, 2005

Currently, all successor employers who are not employers at the time of transfer have been assigned rates by one of two methods. If the predecessor has a tax rate based upon their own experience in the year of transfer, the successor is assigned the lesser of the predecessor's rate class in the year of transfer or the Industry Average Tax Rate of their own SIC code. If the successor's assigned tax rate is the predecessor's rate, experience is transferred. Subsequent tax years' calculations are then based upon a combination of the transferred experience from the predecessor. The experience used in the calculation of their future tax rates is the experience that transferred. For following rate years the tax rate is calculated using a combination of the successor's own experience and that transferred from the predecessor. Prior to 2005, if a successor is not an employer at the time of transfer and it simultaneously acquires the business of two or more predecessors it is assigned the rate of the predecessor with the highest rate class. This rate can be no less than 1%.

What's New: For transfers from January 1, 2005 and forward, all successor employers who are not employers at the time of transfer will be assigned the tax rate of the predecessor on the transfer date. The "lesser of" wording has been deleted from the law. If the predecessor has a tax rate based upon experience on the transfer date, experience will transfer. For subsequent rate years the tax rate is calculated using a combination of the successor's own experience and that transferred from the predecessor.

The agency must determine if there is a substantial continuity of ownership or management. If it is determined there is substantial continuity; the successor will be assigned the tax rate of the predecessor.

A successor that is not an employer at the time of transfer that simultaneously acquires two or more businesses will be assigned the tax rate of the predecessor with the largest taxable payroll in the calendar quarter immediately preceding the date of transfer with a limit that the rate will be no lower than the Industry Average Tax Rate for the successor's NAICS code assignment. The assigned rate will continue until it qualifies for a tax rate in its own right.

Change of the Tax Rate Notice

Effective Tax Year 2005

Currently the Tax Rate Notices show the UI Tax Rate and the EAF.

What's New: For Tax Year 2005 forward, the Tax Rate Notice must display the amount attributable to each component: The Array Calculation Factor Rate, the Graduated Social Cost Factor Rate, the Solvency Surcharge Rate if any, and the EAF will all be shown.

Visit our Website at:
www.wa.gov/esd/ui/6097info.htm
for additional information
and updates as they become available.